

STATE BOARD OF ELECTIONS BOARD MEETING

Monday, April 21, 2008

MINUTES

PRESENT:

Albert S. Porter, Chairman
Bryan A. Schneider, Vice Chairman
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Wanda L. Rednour, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ALSO PRESENT:

Daniel W. White, Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Specialist II

Chairman Porter called the meeting to order at 10:35 a.m. and led everyone in the pledge of allegiance. Member Smart held Member Walters' proxy until his arrival at 12:10 p.m.

Vice Chairman Schneider moved to recess to the State Officers Electoral Board at 10:36 a.m. Member Smart seconded the motion which passed unanimously. The meeting of the State Board of Elections resumed at 10:53 a.m.

Executive Director White presented the minutes of the March 7 regular and March 13 special meetings. Member Brady suggested a change on the last line of page 4 to change the word "from" to "for." The sentence would read: "The committee is a pass through or a conduit for contributions to candidates and does not keep any of the money." Vice Chairman Schneider moved to adopt the minutes with Member Brady's suggested change and Member Keith seconded the motion. The motion passed unanimously by roll call vote.

The Executive Director indicated that the Springfield office was telephonically connected and available for staff that could not be present in Chicago. Further, that an amended agenda, including Electoral Board matters, a motion regarding Citizens of Judy Barr-Topinka, and a report regarding Populex was sent under separate cover and that additional copies were available.

Mr. White began his report with consideration of the competitive grant application to the U.S. Election Assistance Commission for the Election Data Collection Grant program. Congress awarded 5 grants in the amount of \$2million. This competitive grant program is designed to develop and document administrative and procedural best practices that can be replicated by other states to improve processes to collect accurate and complete data and document specific administrative and management data collection practices. The application was published in the U.S. Federal Register on March 27 and is due by April 28. An SBE committee, consisting of Steve Sturm, Steve Flowers, Mark Mossman, Mike Roate and Kyle Thomas has been established to complete this lengthy application. The Director indicated that the funds would be spent before the November election. A few of the issues discussed by the Board was to ensure costs paid with state funds, that should have been paid with federal funds were identified; and allocation of the funds and spending authority was addressed by the legislature. It was agreed to proceed quickly with the application as receiving this grant would be a bonus. Vice Chairman Schneider moved to authorize the staff to submit the application for the EAC Election Data Collection Grant. Member Brady seconded the motion which passed by 8-0 roll call vote.

Dianne Felts, Director of Voting Systems and Standards, was introduced to offer a report on Populex. She introduced Mr. Morganstein of Populex; Sangamon County Clerk, Joe Aiello; and Stacey Kern and Kim Rockford of the Sangamon County Election Staff. Chairman Porter asked if the 7 points in Ms. Felts report could be discussed by the parties and a report given to the Board at the end of the agenda. Mrs. Felts, Messrs. Morganstein and Aiello and Misses Kern and Rockford agreed and this matter was continued until the end of the meeting.

Mr. White indicated that the Report on Legislation begins on page 20 and as the board knows we are well into the spring session with approximately 6 weeks to go. There have been a number of interesting issues in the written materials of the SBE, materials and a status update on all pending legislation and at the request of Mr. McGuffage a report on HB5003 which addresses improper petition objection filings. He introduced Cris Cray, Legislative Liaison, who was present in the Springfield office via telephone and asked her to give a legislative update. Ms. Cray indicated that hot topics in the General Assembly are straight party ticket voting; the constitutional convention question; recall; and ethics. She confirmed that she spoke with all 4 appropriations chiefs who were in agreement that whether we get the grant or not, they would add the language to the budget. Member McGuffage opined that the HB5003 is a good piece of legislation and asked the Board to support it. Further, that it would deter vexatious and harassing objections if they were verified by an attorney. Member McGuffage asked about his perennial bill, the campaign finance bill and Ms. Cray indicated that the bill was still in house rules. Having nothing further on legislation, Ms. Cray said she would report back to the Board with any updates. Member McGuffage moved to support House Bill 5003 and asked Ms. Cray to indicate that support to the appropriate people. Member Rednour seconded the motion which passed unanimously.

The Executive Director offered an update of the Statewide Advisory Petition which included important dates. He indicated that the proponents of the Project Marriage Illinois (PMI) petition were contacted to find out if the petition will be filed on May 5, six months before the November 4 General Election. He asked Eric Donnewald, Director of Election Training and Resource Development, for his comments. Mr. Donnewald indicated that the software will be ready to process the signature data sheets and 12 temporary technicians will be utilized and SBE staff will perform the conformity check during the 2nd week of May. He said that he contacted PMI that morning and they are non committal whether it will be filed May 5th. Further, that this is the only constitutional amendment that might be filed.

Mr. White presented the Board's FY09 meeting schedule for the Board's consideration. The statutory deadline for proclamation of results of the November General Election and changing the November and/or December meetings were considered. Mark Mossman, Election Information Director commented that the amount of work involved in the canvass is increased if the clerks don't send their canvass timely. Of particular concern were judges, as they take office on the first Monday of December following their election prior to the 31 days canvassing date and Judges must be proclaimed before that date. Mr. Keith asked if it would be possible to limit the scope of work to where the judges ran in contested races. Mr. Mossman indicated that it is hard to separate them as they aren't always broken down by precinct results and is already a very labor intensive canvass, but he said that he will attend the Illinois Association of County Officials Conference on April 29th and will raise this issue with the election authorities. Vice Chairman Schneider suggested a meeting very early on December 1, 2008. General Counsel Sandvoss read from 1A-19 confirming that the judicial election results must be proclaimed before December 1st. Chairman Porter indicated that this will be a difficult matter to solve, but there is time to find a resolution. He asked that everyone think about the problem and revisit it at the May meeting. Member Keith moved to adopt the Board schedule for FY09, and the Board could take a look at it and offer changes and suggestions at the next meeting. Vice Chairman Schneider seconded the motion which passed by 8 yeas in unison and none opposed.

Mr. White concluded his report with informational fiscal status reports and the two year plan of staff activity for the months of April and May. He indicated that spending is well within established limits, but will continue to monitor spending particularly if the statewide petition is filed because that will cause additional staffing, temporary help, etc.

General Counsel, Steve Sandvoss, began his report with the Consideration of a Motion by Counsel for the Citizens for Judy Baar Topinka Committee, relating to assessed civil penalty. Mr. Richard Means, attorney for the committee was introduced and offered comments. Member Smart moved to vacate the January 17, 2007 final order and accept a 10% settlement offer. Member Brady seconded the motion which passed 6-2 with Member Keith and Chairman Porter voting no.

Mr. Sandvoss presented six new appeals of campaign disclosure fines wherein the hearing officer recommended the appeals be granted and confirmed that he agreed with the hearing officer. Member Smart moved to grant the appeals in *SBE v. Dodge for Trustee*, L7585, 08DS022; *SBE v. Citizens to Elect Mark Stricklin*, L10843, 08DS040; *SBE v. Grafton Township Republican Central Committee*, L12388, 08DS056; *SBE v. Committee to Elect Jim MacRunnels*, L14376, 08DS110; *ISBE v. Kankakee Federation of Labor AFL-CIO COPEI*, S5607, 07JS101; and *ISBE v. Niles township Democratic Organization*, S9194, 07AE052. Member Keith seconded the motion which passed unanimously by roll call vote.

Mr. Sandvoss presented the withdrawal of appeal in #11, *SBE v. Cunningham for County Clerk*, L10813, 08DS039 and indicated that the fine had been paid. Member Keith moved and Member Rednour seconded a motion to accept the withdrawal. The motion passed by 8 ayes in unison and none opposed.

The General Counsel concurred with new appeals of campaign disclosure fines wherein the hearing officer recommended the appeals be denied. Items 11, 14, 18, 20, 24, 25 and 27 were considered separately. Member Smart moved and Member Rednour seconded a motion to deny the appeals with the exception of the aforementioned items. The motion passed unanimously. Appeals were denied in: *ISBE v. Schaumburg United Party*, IL723, 08DS001; *SBE v. Friends of Pat Morris*, L1348, 08DS005; *SBE v. Lincoln Republican Club of Bureau County*, L10785, 08DS038; *SBE v. Southern Will County Republican Org.*, L11911, 08DS051; *SBE v. Sugar Grove Library Friends PAC*, L13186, 08DS071; *SBE v. Friends of Steven Carlson*, L13619, 08DS084; *SBE v. Citizens to Elect Wayne Horne*, L14001, 08DS096; *SBE v. Cary Area Citizens for Responsible Government*, L14223, 08DS104; *SBE v. Northern IL Homebuilders Association PAC*, S2787, 08DS138; *SBE v. 5th District Ward PAC*, S6360, 08DS155; *SBE v. Henry County Republican Central Committee*, S6935, 08DS162; *SBE v. The Fifth District Precinct Fund*, S71115, 08DS164; and *SBE v. Citizens for Andre B. Ashmore*, S8807, 08DS197.

The Chairman called item #14, *SBE v. Friends of Robert W. Fejt*, L13202, 08DS072, and recognized the appearance of Robert Fejt appearing *pro se*. The Hearing Officer recommended that the appeal be denied for lack of an adequate defense and the stay be lifted from the previously assessed penalty resulting in a total penalty of \$1675 due and owing. The General Counsel concurred with the recommendation. Discussion ensued among the Board. Member Smart moved to grant the appeal and the \$1625 penalty would be stayed. Member Rednour seconded the motion which passed 7-1 with Member Keith dissenting.

Mr. Sandvoss explained that Item 18) *SBE v. Bremen Township Regular Democratic Organization*, S742, 08DS125 had been inadvertently removed from the agenda and packet and that John D. Lord was present and asked that the matter be heard. Mr. Brady noted that although the respondent was aware of the hearing, proper notice was not given to others who might be interested in the proceedings. Mr. Borgsmiller confirmed that notice that the matter would be placed on the agenda was mailed and received by the respondent. Vice Chairman Schneider moved to continue this matter to the June 9 meeting. Member Rednour seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

The Chairman called Ms. Virginia L. Reyes and Mr. Gilbert C. Delago, Respondents in 20) *SBE v. Hispanic Democratic Organization*, S5775, 08DS243. Mr. Sandvoss summarized the activities of the committee and agreed with the Hearing Officer's recommendation to deny the appeal for lack of an adequate defense and lift the previously assessed penalty resulting in an \$1100 penalty that is now due and owing. After discussion, Member Keith moved and Vice Chairman Schneider seconded a motion to adopt the recommendation of the hearing officer and general counsel and deny the appeal. The motion passed 8-0 by roll call vote.

SBE v. Workshop Coalition, Inc. S7835, 08DS173 was called and Mr. Calvin "Omar" Johnson, Chairman, was present. After Mr. Johnson responded to the complaint, Chairman Porter recognized that it is not a political committee and did not have to file their reports with the SBE as it is an activist group in the neighborhood who lobbies for contract and jobs. Member Smart moved to grant the appeal and take the steps necessary to dissolve the committee. Member McGuffage seconded the motion which passed unanimously. The motion passed by 7-1 vote with Member Keith voting no.

Chairman Porter called #25, *SBE v. Chicago Latino 100*, S8634, 08DS192. The Respondent indicated they were a small organization of business men and women who discuss politics and candidates and support candidates. The General Counsel agreed with the Hearing Officer that due to the continued filing delinquency of this committee, the appeal be denied and the total assessed fine of \$5,900 be due and owing. Member Keith moved to deny the appeal and adopt the recommendation of the Hearing Officer and General Counsel. Vice Chairman Schneider seconded the motion which passed unanimously.

The Chairman called Amy Anderson Day in the matter of #27, *Women Who Win*, S9280, 08DS212 and indicated that the Hearing Officer recommends and the General Counsel concurs that the appeal be denied for lack of adequate defense, but as a first violation the penalty is stayed. Ms. Day had no comment. Member Keith moved to adopt the recommendations of the Hearing Officer and General Counsel and deny the appeal, but stay the penalty as a first offense. Vice Chairman Schneider seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

General Counsel Sandvoss returned to item 3A1 of his report, *SBE v. Friends of Don Patterson*, L13749, 07CD101, consideration of a civil penalty assessment for failure to comply with a Board Order. Mr. Sandvoss indicated that a Final Order of the Board ordering the committee to file the June 2007 Semi-annual report within 30 days of the effective date of this Order; that failure to file would result in the imposition of a civil penalty not to exceed \$5,000.00; the effective date is March 7, 2008; and that the Final Order is subject to review under the Administrative Review Law and Section 9-22 of the Election Code. He confirmed that as of today, they have not complied with the Final Order and at this time, the Board may consider whether to issue a civil penalty and how much to assess. He recommended \$5,000 as this committee has ignored every order the Board has issued with no indication. No one appeared for the Respondent. Member Smart moved to assess a penalty of \$5,000.00. Member Rednour seconded the motion which passed unanimously by roll call vote.

The General Counsel's report continued with a request for payment plan for the Friends of Judy Stearns. The candidate requested a payment plan of 12 payments on the \$4,314.00 fine and enclosed the first payment. Vice Chairman Schneider moved to accept the 12 installment payment plan. Member Brady seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

Director of Campaign Disclosure, Rupert Borgsmiller, explained the changes regarding assessment and fines posted on the SBE Campaign Disclosure Website. Member Rednour moved to adopt the changes and Member Smart seconded the motion. The motion passed by 8 ayes in unison and none opposed.

Civil penalty assessments requiring a final board order were presented by the General Counsel. Vice Chairman Schneider moved and Member Rednour seconded a motion to issue final orders imposing penalties on pages 202 through 207 with the exception of Stephanie Neely on page 202. The motion passed 8-0. Member Keith recused himself on L2890, Committee to Re-Elect William Billy Earl and Friends of Judy Yeager, L6293.

The General Counsel submitted payment of civil penalties for informational purposes.

SBE v. Citizens for Honest Government, 07CD083; *SBE v. Citizens for Bilotta*, 07CD092; and *SBE v. Salamanca for Change*, 07CD100, Complaints following public hearing, were next on the agenda. The General Counsel concurred with the recommendations of the Hearing Officer. Member Keith moved to adopt the recommendations of the Hearing Officer and General Counsel that the reports at issue in 07CD083 were filed, and in compliance with relevant Statutes and Board Rules refer these matters to Campaign Disclosure staff for appropriate penalty assessment and in 07CD092, that the Committee be ordered to file its June 2007 Semi-annual Report within 30 days of the Order. Member Smart seconded the motion which passed unanimously 8-0. The General Counsel added that the Citizens for Bilotta Committee failed to file its June 2006 Semi-annual Report electronically, and as such, the Order should include a command to file such report electronically. Member Keith moved to amend the motion in that regard. Member Smart seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

At this time, the Chairman returned to item 2.b. Report on Populex. Ms. Felts indicated that they did not come to a decision and asked that the matter be continued to the June board meeting. When asked how many of the points were discussed, Ms. Felts answered that they were stalled on number 1. All parties verbally agreed to move this matter to the May meeting in Springfield. Member McGuffage moved to continue the report to the May meeting. Member Rednour seconded the motion which passed 7-0-1. Member Brady voted present.

The board took a break at 12:56 p.m. and returned to session at 1:08 p.m.

Use of Obituaries to Remove Deceased Voters from Voter Registration Rolls was considered. Suggestions were made to change par.5 by removing the words "throughout the community" and replacing it with "in the county"; and on the second to the last line to remove "official" and insert "licensed funeral director." Member Keith moved to adopt the rule with the changes. Member Brady seconded the motion which passed by unanimous roll call vote.

Mr. Sandvoss summarized Act Blue Illinois and similarly situated committees and the results of gathering information from other states. He requested that the matter be continued to May. Member Keith moved to move the matter to the May meeting and request the General Counsel offer a proposed rule and accept limited comment at that time. Vice Chairman Schneider seconded the motion which passed 8-0.

The Chairman asked if there was other business. Member Brady asked Mr. Borgsmiller about the challenge to the Terry Link campaign wherein circulators were paid to circulate Sen. Link's nominating petitions. He replied that one gentleman, Pete Couvall, admitted that he was paid \$2500 from Sen. Link's committee and he in turn paid people to circulate Sen. Link's petitions, but that it has been listed and reported. Mr. Borgsmiller stated that the \$2,500 was reported by Sen. Link's committee and as far as the SBE campaign disclosure staff was concerned the matter is closed. Member Brady asked whether Mr. Couvall's use of personal funds to pay circulators to do the work on behalf of Sen. Link's committee was an in-kind contribution, albeit a second or third generation contribution. He questioned why it was not further followed up. Mr. Borgsmiller didn't think that the campaign disclosure division has ever considered such expenditures as being an in-kind contribution. Member Brady asked if his position would change if Mr. Couvall spent \$5,000 on circulators and only received \$2,500 from Sen. Link's committee. Member

Brady felt it was an elaborate way to avoid disclosure. Vice Chairman Schneider suggested that Mr. Borgsmiller prepare a report for the next meeting and directed staff to submit it for the next board meeting.

Vice Chairman Schneider moved to recess to Executive Session for the consideration of complaints following closed preliminary hearing, pending litigation and personnel matters. Member Rednour seconded the motion which passed unanimously.

The Board retired to executive session at 1:48 p.m. and returned to open session at 3:30 p.m.

Member Keith moved to resolve the claim brought by McHenry County as discussed in executive session. Vice Chairman Schneider seconded the motion which passed unanimously by roll call vote.

In regards to item 35, *Stern v. The New Wheaton Central Foundation*, 08CD001, Vice Chairman Schneider moved to find the complaint was filed on justifiable grounds, however no public hearing as the filings have been filed. Such filings will be referred to our Campaign Disclosure department for appropriate evaluation. Member Keith seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

In regards to item 36, *Illinois Campaign for Political Reform v. Committee for Ed Smith*, 08CD003, Vice Chairman moved to find that the complaint was filed on justifiable grounds and no public hearing be ordered because the filings that were demanded have been filed. Such filings will be referred to our Campaign Disclosure department for appropriate evaluation. Member Keith seconded the motion which passed 7-1 with Member Walters voting against the motion.

Member Keith moved to direct the Executive Director to offer the position of Assistant Executive Director in accordance with the conversations and directions of Executive Session and report back to the Board in May regarding progress in that endeavor. Vice Chairman Schneider seconded the motion which passed unanimously by 8 ayes in unison and none opposed.

There being no further business before the Board, Member Keith moved to adjourn subject to the call of the Chair or May 19, 2008 at 10:30 a.m. in the Springfield office.

The State Board of Elections adjourned at 3:43 p.m.

Dated: April 24, 2008

Respectfully Submitted,

Daniel W. White, Executive Director

Darlene Gervase, Administrative Specialist II